



US EPA RECORDS CENTER REGION 5



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STATE OF MINNESOTA  
OFFICE OF THE ATTORNEY GENERAL  
ST. PAUL 55155

WARREN SPANNAUS  
ATTORNEY GENERAL

November 6, 1981

ADDRESS REPLY TO:  
ATTORNEY GENERAL'S OFFICE  
POLLUTION CONTROL DIVISION  
1935 WEST COUNTY ROAD B2  
ROSEVILLE, MN 55113  
TELEPHONE (612) 296-7342

Honorable Diana E. Murphy  
United States District Court Judge  
609 United States Courthouse  
110 South Fourth Street  
Minneapolis, MN 55401

Re: U.S., et al. vs. Reilly Tar and Chemical Corp.  
File No. Civ. 4-80-469

Dear Judge Murphy:

Today my office was advised that the hearing on the Motion to Dismiss in the above-captioned action has been indefinitely postponed, pending Judge Magnuson's assumption of duties.

As your docket will show, the lawsuit against Reilly Tar was filed on September 4, 1980, with the State of Minnesota being granted intervention on October 15, 1980. The several Complaints allege an imminent and substantial endangerment to health and the environment resulting from the handling, storage, treatment, and disposal of hazardous and other chemical wastes by Reilly Tar.


On March 4, 1981, Reilly Tar filed its Motion to Dismiss. Argument on the Motion was scheduled for April 15, 1981. On its own initiative, the Court postponed the argument to June 23, 1981. Subsequently, the Court again postponed the argument, to September 16, 1981. Because the Complaints of the United States and St. Louis Park were amended about September 1, 1981, to include counts under the recent Superfund Act, the argument on the Motion to Dismiss was postponed at the request of the parties until December 2, 1981.

As I noted in my letter to you of June 5, 1981, this case involves an environmental matter of great concern. In his Affidavit of June 5, 1981, David J. Giese of the Minnesota Department of Health described the contamination of the water supplies of St. Louis Park and Hopkins, the closing of municipal wells due to the risk posed by carcinogenic compounds in water withdrawn from the wells, and the continuing threat to the public water supplies in the area. In Mr. Giese's subsequent affidavit, to be filed with this Court, the closing of an additional St. Louis Park well will be discussed, underscoring the continuing threat to public water supplies.

The resolution of the legal issues raised by the Motion to Dismiss is critical to determination of liability for this major environmental problem. The issues are being thoroughly briefed according to a schedule established by the parties in anticipation of the December 2, 1981, hearing date. I respectfully request that you reconsider your decision to transfer the case, or consider retaining the case temporarily for determination of the pending Motion. If you cannot accommodate either of these requests, would you please advise Judge Magnuson of the delays experienced and request an early hearing date on his calendar.

I am aware of the heavy caseload of the Court and the priorities assigned other cases, and appreciate your additional time in considering these requests.

Very truly yours,

  
STEPHEN SHAKMAN

SS/ps

cc: All counsel of record